

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

---

ESTATE OF DANE WOURMS

and

LAWRENCE WOURMS  
as personal representative of the  
Estate of Dane Wourms

Plaintiffs,

v.

Case No. 11-cv-740

SCOTT FIELDS,  
in his individual capacity,

and

the CITY OF EVANSVILLE

Defendants.

---

COMPLAINT

---

**I. NATURE OF ACTION**

101. This is a civil action brought by the Estate of Dane Wourms pursuant to 42 U.S.C. §1983 in order to obtain compensation for the decedent's injuries and his death, which resulted from Police Officer Scott Fields's use of deadly force when he struck Dane Wourms's vehicle.

## **II. JURISDICTION AND VENUE**

### **A. Jurisdiction**

201. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1331 (federal question jurisdiction) and 28 U.S.C. § 1343(a)(3) (42 U.S.C. § 1983 jurisdiction).

### **B. Venue**

202. The Western District of Wisconsin is the proper venue for this action because the plaintiff's claims arose within the geographical boundaries of the Western District of Wisconsin within the meaning of 28 U.S.C. § 1391(b).

## **III. PARTIES**

### **A. Plaintiffs**

301. At all times relevant to this lawsuit (April 2007), Dane Wourms was a sixteen-year-old male resident of Wisconsin.

302. Dane Wourms died on April, 22 2007.

303. The Estate of Dane Wourms is an entity with the capacity to sue and be sued in this court.

304. Lawrence Wourms, Dane Wourms's father, is the personal representative of the Estate of Dane Wourms.

**B. Defendants**

305. Defendant Scott Fields is a natural person with the capacity to sue and be sued in this court, who at the time material to this action was a police officer for the City of Evansville, Wisconsin.

306. Defendant City of Evansville is a Wisconsin city with the capacity to sue and be sued in this court.

**IV. ALLEGATIONS OF FACT AS TO ALL CAUSES OF ACTION**

401. The incident that gives rise to this claim took place in the City of Evansville, Wisconsin, which is located in Rock County.

402. On April 22, 2007, at or about 1:00 a.m., Dane Wourms got into a blue Mazda owned by his father, Lawrence "Larry" Wourms.

403. Dane Wourms drove the Mazda into the City of Evansville.

404. Police Officer Scott Fields was on patrol in the City of Evansville in the early morning hours of April 22, 2007.

405. Officer Fields responded to a call relating to Dane Wourms.

406. After responding to the call, Officer Fields went looking for Dane Wourms.

407. After observing a blue Mazda in Evansville, Officer Fields put on his emergency signals.

408. Dane Wourms had previously had contacts with the police that did not resolve well and he was afraid of future interactions with the police.

409. Dane Wourms did not pull over after Officer Fields put on his

emergency signals.

410. Dane Wourms continued to drive on Main St. and Officer Fields followed.

411. At or about 1:20 a.m., Dane Wourms was on a stretch of Main St. with no intersections.

412. At or about 1:20 a.m., there were no bystanders or moving vehicles on the road near the blue Mazda Dane Wourms was driving.

413. At or about 1:20 a.m., Officer Fields had no contact with any member of the public, in a vehicle or otherwise.

414. At some point during the pursuit, Officer Fields turned off his emergency lights and siren.

415. On April 22, 2007, at or about 1:20am, Officer Fields intentionally struck the rear bumper of the blue Mazda Dane Wourms was driving.

416. As a result of Officer Field striking the blue Mazda, Dane Wourms lost control of the vehicle and went off the road.

417. As the vehicle careened off the road, it struck a tree and Dane Wourms was ejected from the vehicle.

418. Officer Fields pulled over his vehicle and went to find Dane Wourms. He observed that Dane Wourms had suffered a severe head injury and did not appear to be breathing.

419. Sometime later, Dane Wourms was pronounced dead at the scene.

420. Prior to April 22, 2007, Officer Fields had only been involved in

one other pursuit during his career.

421. Prior to April 22, 2007, Officer Fields had never received training in the Pursuit Intervention Technique (PIT) maneuver.

422. A PIT maneuver involves a police car striking another vehicle for the purpose of making the driver lose control of the vehicle so that it is driven off the road.

423. A PIT maneuver is a use of deadly force.

424. Upon information and belief, at no time did Officer Fields use any type of loudspeaker to warn Dane Wourms of Officer Fields's intention to strike the car.

425. Upon information and belief, at no time did Officer Fields use any type of loudspeaker to communicate to any person or vehicle warnings to protect themselves.

426. Upon information and belief, at no time did Officer Fields call for other Officers to serve as backup.

427. Officer Fields did not make any attempts to contact a supervisor to request permission to execute the PIT maneuver.

428. Officer Fields's decision to strike the blue Mazda Dane Wourms was driving was not a safe maneuver because, among other things, it sent Dane Wourms's vehicle into a lane of oncoming traffic before it went off the road.

429. On April 22, 2007, it was clearly established that a police officer may not use excessive force to execute a search and seizure in the context of a hot pursuit. *See Tennessee v. Garner*, 471 U. S. 1 (1985).

430. Defendant City of Evansville employed Defendant Fields as a Police Officer.

431. At all times material hereto, Defendant Fields was acting under color of law.

432. At all times material hereto, Defendant Fields was acting within the scope of his employment within the meaning of § 895.46 Wis. Stats.

## **V. BASIS OF LIABILITY**

501. Defendant Fields violated Dane Wourms's right to be free from unreasonable search and seizure secured by the Fourth and Fourteenth Amendments to the Constitution of the United States when he used excessive force in order to drive Dane Wourms off the road.

503. The Defendant City of Evansville is liable for the unlawful acts of Defendant fields because he was acting within the scope of his employment pursuant to Sec. 895.46, Wis. Stats. The plaintiff does not allege that the wrongful acts alleged herein were carried out pursuant to a custom or policy of the Defendant City of Evansville.

## **VI. DAMAGES**

601. Dane Wourms sustained serious injury and death as a result of the individual Defendant's unconstitutional conduct, for which his estate seeks an award of compensatory damages.

602. Dane Wourms endured severe pain and suffering as a result of the individual Defendant's unconstitutional conduct, for which his estate seeks an award of compensatory damages.

603. Dane Wourms sustained loss of future earning capacity as a result of the individual Defendant's unconstitutional, conduct for which his estate seeks an award of compensatory damages.

604. Because the acts of the individual Defendant herein alleged were carried out maliciously or with reckless disregard for the Dane Wourms's fundamental rights, the Plaintiffs seek awards of punitive damages against the individual Defendant to deter him and others similarly situated from similar wrongful acts in the future.

## **VII. CONDITIONS PRECEDENT**

701. All conditions precedent to this action within the meaning of Rule 9(c), Fed. R. Civ. Pro., have been performed or have otherwise occurred.

## **VIII. REQUEST FOR JURY TRIAL**

801. The Plaintiffs request a trial by jury of all claims triable of right to a jury.

**IX. PRAYER FOR RELIEF**

WHEREFORE, the Plaintiffs pray the court to grant a judgment against the Defendants awarding the full amount of their damages together with interest, costs and attorney's fees and such other and further relief as the court deems just.

Dated this Friday, October 28, 2011.

Respectfully submitted,

Estate of Dane Wourms

And

Lawrence Wourms

By

THE JEFF SCOTT OLSON LAW FIRM, S.C.

JEFF SCOTT OLSON

State Bar Number 1016284

131 West Wilson Street, Suite 1200

Madison, WI 53703

Phone 608/283-6001

Fax 608/283-0945

Email: jsolson@scofflaw.com

/s/ Jeff Scott Olson

---

Jeff Scott Olson

ATTORNEY FOR PLAINTIFFS